



**BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND
ASSISTED LIVING FACILITY MANAGERS**

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Janet Napolitano

Governor

Victoria Martin

Executive Director

December 27, 2004

Debra Davenport
Auditor General
2910 North 44th Street, Room 201
Phoenix, AZ 85018

RE: Response to Sunset Audit Report

Dear Ms. Davenport:

I respectfully submit the Nursing Care Board's response to the Auditor General's performance audit. I am pleased note that the audit did not find any missing funds, misappropriated funds, or malfeasance and that the Auditor General recommended that the Board be continued.

The Board is a small (5 FTEs) self-supporting 90/10 agency that currently licenses 2,726 long term care professionals. The Board's annual budget appropriation is about \$370,000.

The Board was steadily deteriorating from FY98 through FY02 due to rapid growth and repeated management turnover. But in FY03, the Board hired its current Executive Director, entered a rebuilding period, and began to address its challenges. Despite the significant obstacles it has had to overcome in the last couple of years, the Board has made great progress.

In the last couple of years, under my direction, the Board created a website, provided staff with e-mail, raised fees for the first time in 12 years, addressed the large backlog of complaint cases and license applications that were here in July 2002, created the first policies and procedures for the Board's processes, developed an enforcement coordination program with DHS, underwent a Sunset Review in FY 04, underwent a Sunset Audit in FY 05, held the Board's first Retreat, timely reviewed all of its rules with GRRRC, processed renewals in record

times, and in FY 04 processed 1,478 different types of applications with only 9 processed outside the licensing timeframes.

In calendar year 2004, the Board underwent two audits, which is an unprecedented burden for a small 90/10 agency. The Auditor General's Sunset Audit involved at least 6 different auditors, took 6 months, cost the Auditor General \$135,000 and produced a 47-page audit report. The Department of Administration's GAO audit also involved at least 6 different auditors, took 12 months and produced a 43-page audit report. This was an unprecedented level of audit scrutiny for a small 90/10 Board and was a great financial and administrative burden for the Board. It effectively brought our rebuilding efforts to a standstill. But the audits did not find any missing funds, misappropriated funds, or malfeasance.

In the future, Arizona will face the growing challenge of a rapidly increasing number of frail elderly adults who will need the services of Arizona's long term care professionals. This Board regulates those professionals and looks forward to being a part of Arizona's response to this growing social issue.

On behalf of the Board, I would like to thank you for the courtesies extended to us by the audit team.

Sincerely,

Victoria Martin
Executive Director



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FINDING #1. THE BOARD SHOULD IMPROVE COMPLAINT PROCESSING.

The Board agrees with this finding.

RECOMMENDATIONS:

1. Consider adding a full-time investigator:

The Board will implement this recommendation in a different manner. The Board will consider adding a full-time investigator when it raises its fees so that it can afford to hire an additional full-time investigator.

2. Enhance complaint policies and procedures to:

a. develop and policies and procedures to categorize and prioritize complaints;

The Board will implement this recommendation in a different manner. The Board will expand its existing written complaint and hearing policies, procedures, and checklists by formalizing our informal guidelines and including specific written guidelines to categorize and prioritize complaints

when it has additional investigative staff to devote to developing more detailed complaint policies and procedures.

b. establish complaint timeframes;

The Board will not implement this recommendation. The Board does not currently have adequate investigative staff and needs to maintain the flexibility to address the most serious complaint cases as they arise rather than try to meet arbitrary timeframes on all complaint cases. Moreover, the Board is not aware of any statute or rule that requires the Board to establish complaint timeframes.

c. guide staff on investigation of complaints received from DHS.

The Board will implement this recommendation by expanding its existing written complaint and hearing policies, procedures, and checklists to include formal guidelines concerning processing DHS complaints when it has additional investigative staff to devote to developing more detailed complaint policies and procedures.

3. Improve the quality of complaint database information and monitor complaint investigations by:

a. creating procedures directing staff to enter information on complaint and investigative activity in an accurate and timely manner and verifying the information's accuracy;

The Board will implement this recommendation by expanding its existing written complaint and hearing policies, procedures, and checklists to

include these procedures when it has additional investigative staff to devote to developing more detailed complaint policies and procedures.

- b. defining key investigative activities and complaint information to help insure the consistency of information entered into the database;**

The Board will implement this recommendation by expanding its existing written complaint and hearing policies, procedures, and checklists to include these definitions when it has additional investigative staff to devote to developing more detailed complaint policies and procedures.

- c. generating monthly management reports to track complaint investigations.**

The Board will implement this recommendation.

- 4. Once the policies and procedures are developed, ensure that investigative staff are fully trained on them.**

The Board will implement this recommendation.

- 5. Use Letters of Concern only when complaint allegations are not proven and revise procedures to first determine whether each allegation is a violation and then take appropriate action.**

The Board will implement this recommendation in a different manner. The Board will consult with its Assistant Attorney General for guidance on a case-by-case basis to determine whether it would be appropriate to use a Letter of Concern under the Board's statutes.

- 6. The Legislature should consider legislation to provide the Board with authority to discipline licensees whose licenses expire prior to adjudication of complaints against the license.**

The Board will work with the Legislature to implement this recommendation.

FINDING #2: BOARD PRACTICES RESTRICT ACCESS TO PUBLIC INFORMATION.

The Board does not agree with this finding, but will implement the recommendations as follows:

RECOMMENDATIONS:

- 1. Establish written public information policies and procedures that detail the information that will be made available to the public.**

The Board will implement this recommendation by expanding its existing written public information policies and procedures to include detail about information that is available to the public.

- 2. Train staff on how to respond to public information requests.**

The Board will implement this recommendation.

- 3. Ensure that the Board's website information is accurate.**

The Board will implement this recommendation in a different manner. The Board believes that its website information is reasonably accurate because the audit report, at page 23, lists only one example of inaccurate information on the website. However, the Board will correct any inaccuracies brought to our attention.

- 4. Expand the website.**

The Board will implement this recommendation in a different manner. The Board will consider expanding its website when it has the resources to do so.

FINDING #3: BOARD SHOULD IMPROVE OVERSIGHT OF OPERATIONS.

The Board does not agree with this finding and believes it is currently adequately performing its oversight duties in accordance with good governance principles, but will implement the recommendations as follows:

RECOMMENDATIONS:

1.a. Develop realistic financial projections:

The Board will not implement this recommendation because it believes that its financial projections are realistic. They were prepared by a CPA who is independent from the Board, using information provided by the Board and other state agencies that are independent from the Board. And the current FY 05 revenues and expenditures are consistent with the projections.

b. determine if expenditures can be reduced

The Board will not implement this recommendation because it believes that there is no need for it at this time. Although the Board's expenses exceeded its revenues for several years, the Board addressed this issue in FY04 by raising fees. The Board's FY05 financial projections show that the Board's revenues will cover or exceed expenses for the first time in several years.

c. consider increasing fees:

The Board will implement this recommendation.

- d. **if necessary, request that the Legislature increase the statutory limit on the Board's fees.**

The Board will implement this recommendation.

2. **Improve complaint and licensing database quality.**

The Board will implement this recommendation.

3. **Schedule complaints for formal hearing.**

The Board will implement this recommendation. The Board has sent its complaint hearing cases to the Attorney General's Office for hearing processing. When the AAG finishes preparing the cases for hearing and drafts the Notice of Complaint for the cases, the Board will schedule the cases for hearing.

4. **Require a written report from the Executive Director at least every other month.**

The Board will implement this recommendation.

FINDING #4: State requirements not always followed.

The Board does not agree with this finding but will implement the recommendations as follows:

RECOMMENDATIONS:

- 1. Strengthen cash handling procedures by depositing receipts daily, reconciling receipts to licenses issued, reconciling the cash log to the deposit.**

The Board will implement this recommendation in a manner that is consistent with, reasonable for, applicable to, and uniformly applied to very small, self supporting, 90/10 agencies.

- 2. Recover any overpayments made for travel expenses.**

The Board will implement this recommendation in a different manner. The Board will have its Office Manager attend a travel training class and will attempt to obtain a travel training presentation for its Board Members.

- 3. Ensure that the Board follows all state requirements, policies, and procedures for procurement and travel.**

The Board will implement this recommendation in a manner that is consistent with state law and consistent with, reasonable for, and uniformly applied to very small, self supporting, 90/10 agencies.